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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2012-721

12 **MICHELE JANIS RAUCH, AKA**
13 **MICHELE JANIS FELDMAN**
14 1445 9th Street #7
Santa Monica, CA 90401

A C C U S A T I O N

15 Registered Nurse License No. 390456

16 Public Health Nurse Certificate No. 41036

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
23 Department of Consumer Affairs.

24 **Registered Nurse License**

25 2. On or about August 31, 1985, the Board issued Registered Nurse License No. 390456
26 to Michele Janis Rauch, aka Michele Janis Feldman (Respondent). The Registered Nurse License
27 will expire on January 31, 2013, unless renewed.

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1 Public Health Nurse Certificate

2 3. On or about November 19, 1986, the Board issued Public Health Nurse Certificate
3 No. 41036 to Respondent. The Public Health Nurse Certificate will expire on January 31, 2013,
4 unless renewed.

5 JURISDICTION

6 4. This Accusation is brought before the Board under the authority of the following
7 laws. All section references are to the Business and Professions Code unless otherwise indicated.

8 STATUTORY PROVISIONS

9 5. Section 2764 provides, in pertinent part, that the expiration of a license shall not
10 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
11 to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the
12 Board may renew an expired license at any time within (8) eight years after the expiration.

13 6. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
14 including a licensee holding a temporary or an inactive license, for any reason provided in Article
15 3 (commencing with section 2750) of the Nursing Practice Act.

16 7. Section 490 provides, in pertinent part:

17 "(a) In addition to any other action that a board is permitted to take against a licensee, a
18 board may suspend or revoke a license on the ground that the licensee has been convicted of a
19 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
20 or profession for which the license was issued.

21 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
22 discipline a licensee for conviction of a crime that is independent of the authority granted under
23 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
24 of the business or profession for which the licensee's license was issued.

25 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
26 conviction following a plea of nolo contendere. Any action that a board is permitted to take
27 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
28 the judgment of conviction has been affirmed on appeal, or when an order granting probation is

1 made suspending the imposition of sentence, irrespective of a subsequent order under the
2 provisions of Section 1203.4 of the Penal Code."

3 8. Section 2761 provides, in pertinent part:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an
5 application for a certificate or license for any of the following:

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7 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
8 functions, and duties of a registered nurse, in which event the record of the conviction shall be
9 conclusive evidence thereof."

10 REGULATORY PROVISIONS

11 9. California Code of Regulations, title 16, section 1444, provides, in pertinent part:

12 "A conviction or act shall be considered to be substantially related to the qualifications,
13 functions or duties of a registered nurse if to a substantial degree it evidences the present or
14 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
15 safety, or welfare. . . ."

16 COST RECOVERY

17 10. Section 125.3 provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licentiate found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 CAUSE FOR DISCIPLINE

22 (Conviction of Substantially-Related Crimes)

23 11. Respondent is subject to disciplinary action under Code sections 490, and 2761,
24 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
25 Respondent was convicted of crimes that are substantially related to the qualifications, functions
26 or duties of a registered nurse, as follows:

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a. On or about September 21, 2009, pursuant to a plea of *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty theft], in the criminal proceeding entitled *The People of the State of California v. Michelle Janis Rauch* (Super. Ct. Los Angeles County, 2009, No. 9WA21625). The court placed Respondent on probation for a period of 24 months, ordered her to complete 20 days of community labor, and fined her. The circumstances surrounding the conviction are that on or about February 14, 2009, Respondent took items valued at approximately \$400.50 from Sephora, Santa Monica without paying for them.

b. On or about September 21, 2009, pursuant to a plea of *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty theft], in the criminal proceeding entitled *The People of the State of California v. Michelle Janis Rauch* (Super. Ct. Los Angeles County, 2009, No. 8WA14005). The court placed Respondent on probation for a period of 36 months, ordered her to complete 20 days of community service, and fined her. The circumstances surrounding the conviction are that on or about November 12, 2008, Respondent took items valued at approximately \$354.94 from Target Department Store, Culver City without paying for them.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 390456, issued to Michele Janis Rauch, aka Michele Janis Feldman;

2. Revoking or suspending Public Health Nurse Certificate No. 41036, issued to Michele Janis Rauch, aka Michele Janis Feldman;

3. Ordering Michele Janis Rauch, aka Michele Janis Feldman to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to 125.3; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: June 1, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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